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PATENT
Attorney Docket No. 249.305
Express Mail Label No. EV616526056US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Thomas R. Hetzel, Aaron D. Pierce and Steve Maurus
Serial No. : 10/766,623
Filed : January 28, 2004
Title : REINFORCED AND ADJUSTABLE CONTOURED SEAT
CUSHION AND METHOD OF REINFORCING AND
ADJUSTING THE CONTOURED SEAT CUSHION

Group Art Unit : 3673
Confirmation No. : 3753
Examiner : Michael Safavi

CERTIFICATE OF MAILING BY EXPRESS MAIL

Mail Stop Amendments
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned hereby certifies that the attached Response to Restriction Requirement; Certificate of Mailing by Express Mail; and Return Card, relating to the above application, were deposited as "Express Mail," Mailing Label No. EV616526056US, with the United States Postal Service, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 25th day of April, 2005.

4/25/05

Date

Mailer

4-25-05

Date

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RESPONSE TO RESTRICTION REQUIREMENT

In response to the office action mailed March 24, 2005, in which restriction was required between claims 1-41 of Group I, and claims 42-53 of Group II, the Applicant hereby elects the claims of Group I (claims 1-41) for further prosecution. This election is made with traverse.

The inventions of Groups I and II are asserted to be distinct from one another as a product and process of use. It was asserted that the inventions of Groups I and II are distinct from one another because the product as claimed can be used in a materially different process of using that product. In particular, it was asserted that the claimed cushion can be utilized as a support for any portion of the body and does not need to be used for positioning the seat support structure with the support areas as locations adjacent to the tissue masses, or positioning the seat cushion structure with the relief areas at locations adjacent to the bony prominences.

The product as claimed requires a support contour, including relief areas at locations adjacent to skin covering at least one bony prominence of a pelvic area of the person seated on the cushion, and support areas adjacent to skin covering tissue masses adjacent to the one bony prominence. The portion of the body that is supported by the cushion is described in the claims, and therefore supporting any other portion of the body is not within the scope of the claims. Therefore, even though a cushion theoretically could be used to support any portion of a body, the product as

claimed could not be used for supporting other portions of the body because its features are defined with respect to those anatomical portions. Furthermore, the claims specifically call for supporting and relieving the various areas of the pelvic anatomy with regard to which the cushion has claimed contours. It is the claims which are subject to the restriction requirement, and the language of those claims must support the asserted basis for the restriction requirement-not some contrived basis which is outside the scope of the claims. Accordingly it is improper to divide the claims of Group I from the claims of Group II since using the cushion as a support for another portion of the body is outside the scope of claims of the cushion.

The Examiner is encouraged to telephone the undersigned to resolve any issues which would advance this application to issue.

Date: 4-25-05


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